IN THE HIGH COURT OF JUDICATURE AT PATNA
C.R. No.1144 of 2006
SMT.TARA DEVI
Versus
SMT PRATIMA DEVI &ORS
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3 0512.2008 Heard counsel for the petitioner and counsel for the opposite parties.

In the opinion of this Court, the Court below had to be satisfied as to the relevance of the document in question sought to be brought on record by way of additional evidence. This Court would not be in a position to appreciate as to how an agreement for sale of subsequent purchaser would be necessary document to be adduced in the additional evidence in a suit arising out of specific performance of contract based on oral evidence. In fact, the Court below has also not noted in its order that such document is required by the Court itself and would enable it to pronounce the judgment in a more effective manner. Any and every document cannot be taken into additional evidence in terms of Order XLI Rule 27 C.P.C.

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Counsel for the opposite parties has strenuously argued that if the document is taken on record there would be no harm caused to the petitioner. Unfortunately, that is not the scope or prospect of the Order XLI Rule 27 C.P.C. That apart from paragraph No.

12 of the plaint it would be found that the plaintiff-appellant-opposite party has to prove his case as with regard to oral agreement for sale and for that he does not require to rely on a subsequent transaction including an alleged agreement for sale which in his opinion, is forged. Obviously, there would be no need of such document and should not have been taken on record by way of additional evidence.

That being so, the impugned order allowing additional evidence is an apparent jurisdictional error and accordingly, the same is set aside. This Court would notice that the appeal is of the year, 1994 and should not have been kept pending for last 14 years. In that view of the matter, the appellate Court is directed to ensure that the appeal itself is disposed of within a period of six months from the date of receipt/production of a copy of this order.

With the aforementioned observations and directions, this Civil Revision application is allowed.

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Bibhash **(Mihir Kumar Jha, J.)**